transmitting a request to download a file, the request including an identification of the file and an indication of starting point for transmission of the file;

receiving a serial transmission of digital information for the file beginning at the starting point;

appending the digital information to the previously-received portion of the file;

storing the received digital information; and

when the file includes a program, selectively installing the program so that the program is executable.

122.   (Amended) A method for selectively downloading a file in multiple portions, comprising:

downloading a first portion of the file;

subsequently transmitting a request to continue downloading the file;

downloading a second portion of the file;

appending the first portion of the file to the second portion of the file; and

when the file includes a program, selectively installing the program so that the program is executable.

REMARKS

In response to the Office Action dated November 13, 2002, Applicants have amended the independent claims to more clearly define embodiments consistent with the present invention. Applicants have also canceled claims corresponding to restricted groups. Claims 1-7, 9-15, 34-40, 42-48, 67-73, 75-81, and 122 are pending. Reconsideration and allowance of all pending claims are respectfully requested.

Applicants confirm the election of claims in Group I, claims 1-15, 34-48, 67-81, and 122. Applicants have canceled the claims in the other groups and will file divisional applications to prosecute them.

Claims 1, 8-10, 12, 34, 41-43, 67, 74-76, and 122 were rejected under 35 U.S.C. § 102 as anticipated by U.S. Patent No. 6,199,107 (Dujari patent). Applicants have canceled claims 8, 41, and 74, and Applicants have amended independent claims 1, 34, 67, and 122. In particular, each of the independent claims 1, 34, 67, and 122 recite: "when the file includes a program, selectively installing the program so that the program is executable."

The Dujari patent was referenced as disclosing the installation feature recited in claim 8, now canceled. In particular, the Examiner referenced column 8, lines 29-46 and indicated that installation is shown in the Dujari patent by having the file completely downloaded and prepared for use. (Office Action, p. 5.)

Applicant has defined the requirements for installation in the independent claims, and that definition provides for a patentable distinction over the Dujari patent. In particular, Applicants have recited in the independent claims the ability to selectively install a program and have defined the installation as making the program executable.

Applicants' specification as filed contemplates that many types of files (digital information) can be downloaded, including static content and application programs, as well as other content. (Specification, p. 15, line 21 (defining the term "file" to include any digital product).) The programs are executable in the sense that a system or processor can execute them according the instructions in the programs for controlling

operation of the system. (Id. at p. 10, lines 5-7 (stating that a processor in the system can execute programs).)

However, making the programs executable involves more than simply downloading the program. Other steps are taken so that the system can access and execute the program; for example, code for the program may need to be compiled and the system needs to know a location of the compiled code. (See, e.g., id. at p. 28, lines 8-13; Figure 7 (stating that the system performs processing necessary to make the file executable).) The particular processing required to make a program file executable can depend upon various factors, and those skilled in the art would know how to make a file executable.

The Dujari patent does not disclose or suggest making a program file executable. The relevant portion of the Dujari patent indicates that once the complete file is downloaded, it is available to the client. "If uninterrupted range content data is received, such as shown in the response 87 of FIG. 7, the full amount of content is now available at the client." (Dujari patent, col. 8, lines 29-31.) Also, the system of Dujari may indicate to a user the number of bytes of the file, as shown in Figure 8, in case the system can use the information. (Id. at col. 8, lines 37-40.) The number of bytes merely indicates the size of the file. This disclosure of Dujari simply indicates that the entire file is downloaded and resident in local memory; however, downloading alone is not sufficient to make a program executable. A program that only resides in memory on a system is usually not executable until additional steps are taken, as indicated above, so a processor or other element in the system can run the program.
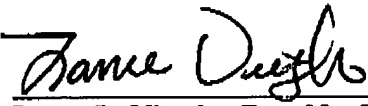
The other references were cited for features not relating to program file installation and likewise do not disclose or suggest the embodiments defined by the independent claims. The Casagrande patent was cited for disclosing downloading using a stream of bytes, and it relates to downloading a data file, not program or data files. The Lavey patent was cited for disclosing various visual features.

Accordingly, Applicants respectfully submit that claims 1, 34, 67, and 122 are patentably distinguishable over the cited references.

Claims 2-4, 11, 35-37, 44, 68-70, and 77 were rejected under 35 U.S.C. § 103 as having been obvious over the Dujari patent and U.S. Patent No. 6,049,892 (Casagrande patent). Claims 5-7, 13-15, 38-40, and 46-48 were rejected under 35 U.S.C. § 103 as having been obvious over the Dujari patent and U.S. Patent No. 6,023,698 (Lavey patent).

Applicants respectfully submit that dependent claims 2-7, 9-15, 35-40, 42-48, 68-73, and 75-81 are patentable for at least the same reasons as provided above for their respective base claims. In view of the above amendments and remarks, Applicants respectfully request reconsideration and allowance of all pending claims.

Date: _____3/12/03_____

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Version with Markings to Show Changes Made

Claims 1, 34, 67, and 122 are amended as follows.

1.   (Amended) A method for selectively downloading a file in multiple portions, at least a portion of the file having been previously received, comprising:

transmitting a request to download a file, the request including an identification of the file and an indication of starting point for transmission of the file;

receiving a serial transmission of digital information for the file beginning at the starting point;

appending the digital information to the previously-received portion of the file; [and]

storing the received digital information; and

when the file includes a program, selectively installing the program so that the program is executable.

34.   (Amended) An apparatus for selectively downloading a file in multiple portions, at least a portion of the file having been previously received, comprising:

a transmission module for transmitting a request to download a file, the request including an identification of the file and an indication of starting point for transmission of the file;

a receive module for receiving a serial transmission of digital information for the file beginning at the starting point;

a module for appending the digital information to the previously-received portion of the file; [and]

a store module for storing the received digital information; and

a module for, when the file includes a program, selectively installing the program so that the program is executable.

67. (Amended) A computer program product, comprising:

a computer-readable medium containing instructions for controlling a computer system to perform a method for selectively downloading a file in multiple portions, at least a portion of the file having been previously received, the method including:

transmitting a request to download a file, the request including an identification of the file and an indication of starting point for transmission of the file;

receiving a serial transmission of digital information for the file beginning at the starting point;

appending the digital information to the previously-received portion of the file; [and]

storing the received digital information; and

when the file includes a program, selectively installing the program so that the program is executable.

122. (Amended) A method for selectively downloading a file in multiple portions, comprising:

downloading a first portion of the file;

subsequently transmitting a request to continue downloading the file;

downloading a second portion of the file; [and]

appending the first portion of the file to the second portion of the file; and

when the file includes a program, selectively installing the program so that the program is executable.